



City of Seattle

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Gregory J. Nickels, Mayor

**Department of Design, Construction and Land Use**

Diane Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

**Application Number:** 2202708

**Applicant Name:** Mel Easter of Johnson-Braund Architects for SEED

**Address of Proposal:** 3700 Rainier Ave S

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to establish use for future construction of a six-story structure containing approximately 9,400 sq ft of retail sales and service uses at ground level with 5 floors of housing located above containing 208 residential units. Parking for 81 automobiles will be located both at grade and in a partially below grade parking garage. The project includes the demolition of three structures and earth movement of approximately 3,000 cubic yards.

The following approvals are required:

- Design Review and Development Standard Departures, pursuant to Chapter 23.41 Seattle Municipal Code.
- Administrative Conditional Use – To permit residential use in a mixed-use structure in a C2 zone, pursuant to SMC Section 23.47.006.B.5.
- SEPA - Environmental Determination, pursuant to SMC Chapter 25.05.

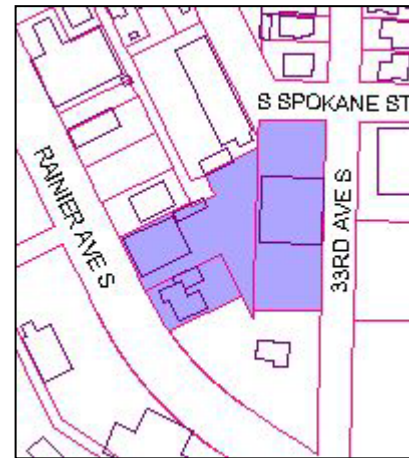
**SEPA DETERMINATION:** ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☒ DNS involving non-exempt grading or demolition or  
involving another agency with jurisdiction

## **BACKGROUND**

The project is to create a new 6 story structure containing ground floor retail spaces with 5 floors of dwelling units located above. To construct the building, three commercial structures located on the site will be demolished. The proposal also calls for approximately 20 parking spaces at grade to serve the commercial spaces as well as approximately 61 parking spaces to be located within the structure. The project, creating 208 units designed for low income elderly and elderly disabled individuals, will include open space at ground level, at individual dwelling units, above the commercial spaces and on the rooftop. The project will also require an Administrative Conditional Use Permit, as residential uses in a Commercial 2 (C2) zone require this approval as part of the Master Use Permit process.



The site is located in a C2 zone with a 65 foot height limit. The site, located at 3700 Rainier Ave S, is within the North Rainier Hub Urban Village and also lies within the boundary of SE Seattle Reinvestment Area (SESRA). Properties in the immediate area on the east side of Rainier Ave S are also zoned C2-65. Properties on the west side of Rainier Ave S are zoned C1-65, while properties north of the site across S Spokane Street are zone Lowrise 2 (L2) and SF 5000, respectively. Properties along Rainier Ave S are predominately one and two story commercial structures that are underdeveloped in relation to their zoning classifications. Properties to the north are characterized by single family residential uses with some lower density multi-family development.

The proposal includes the development of street front commercial spaces on Rainier Ave S as well as commercial storefronts internal to the site accessed from a driveway linking Rainier Ave S and 33<sup>rd</sup> Ave S, which also provides access to the surface parking area. These internally oriented commercial spaces will include a pedestrian plaza located between the storefront entrances and the surface parking area.

Uses proposed on 33<sup>rd</sup> Ave S include the residential entrance, entrance to the structure parking garage as well as ground floor residential units that have a townhouse style appearance, in keeping with the character of the residential uses to the north and east of the development site. Access to the site would be made through the referenced driveway connecting Rainier Ave S and 33<sup>rd</sup> Ave S, including approximately 25 surface parking spots to serve the commercial uses as well as a curbcut on 33<sup>rd</sup> to the structured parking.

## **Public Comments**

Public notice of the Master Use Permit application was published on June 19, 2003 and mailed to neighboring properties within 300 feet of the project site. The public comment period ended on July 3, 2003. Three comment letters were received, one of which was sent after the close of the

comment period. The letters expressed concern about additional parking generated by the project and the allowed height of the project based on the zoning for the site.

In addition, three meetings occurred before the Design Review Board for Southeast Seattle since the project is subject to Design Review. Approximately 10 people from surrounding properties attended these meetings. Their comments are detailed below in the section on Design Review.

## **ANALYSIS – DESIGN REVIEW**

### **Early Design Guidance meeting – March 25, 2003**

On March 25, 2003 the SE Seattle Design Review Board held the Early Design Guidance meeting on this project. At this meeting, the applicants detailed the overall goals of the project as well as providing graphics, photographs and other display materials to illustrate the conceptual development of the project. At this meeting, the Board also took public comment concerning the proposal from citizens that were in attendance at the meeting. Following their deliberation, the SE Seattle Design Review Board prioritized the following guidelines, identifying by letter and number those siting and design guidelines found in the City of Seattle's *"Design Review: Guidelines for Multifamily and Commercial Buildings"* of the highest priority to this project:

- A-1 Responding to Site Characteristics
- A-2 Streetscape Compatibility
- A-3 Entrances Visible from the Street
- A-4 Human Activity
- A-5 Respect for Adjacent Sites
- A-6 Transition Between Residence and Street
- A-7 Residential Open Space
- A-8 Parking and Vehicle Access
- A-9 Location of parking on commercial street fronts
- B-1 Height, Bulk and Scale Compatibility
- C-1 Architectural Context
- C-2 Architectural Concept and Consistency
- C-3 Human Scale
- C-4 Exterior Finish Materials
- C-5 Structured Parking Entrances
- D-1 Pedestrian Open Spaces and Entrances
- D-2 Blank Walls
- D-4 Design of Parking Lots Near Sidewalks
- D-5 Visual Impacts of Parking Structures
- D-6 Screening of Dumpsters, Utilities and Service Areas
- E-2 Landscaping to Enhance the Building and/or Site

At this meeting, the applicants requested two Design Departures as part of their proposal:

- Reducing the required 80% of a structures street front in nonresidential uses (SMC 23.47.008B)
- Reducing the required 20% Open Space requirements in SMC 23.47.024

### **Interim Meeting – May 13, 2003**

The SE Seattle Design Review Board reconvened for a May 13, 2003 meeting on this project. The Board requested the meeting prior to the filing of an application for a Master Use Permit, to show the development of the project since their Early Design Guidance meeting. At that meeting, the Board specifically directed the development team to highlight the development of the following design solutions:

- Reducing the perceived Height Bulk and Scale of the NE corner of the project near the 33<sup>rd</sup> Ave S and S Spokane Street intersection, as adjacent properties are zoned SF 5000 and L2
- Further development of the mass of the building, due to its dominance on the skyline and its relationship to the scale of development in the surrounding area
- How the open space plan has developed, due to the request for a Design Departure

At this meeting, the development team provided a series of graphics and presentation materials to highlight the development of the project. Their presentation included detailed drawings on the following elements of the project:

- The development of the Rainier Ave S façade, including massing, development of a uniform streetwall along Rainier and the detailing of the SW corner of the building
- The development of the south façade include details of the commercial frontage, open space above the commercial spaces, modulation and massing on the upper floors and design and material details
- The location and detailing of the residential lobby
- Development of the 33<sup>rd</sup> Ave S façade to show additional setbacks from the street, upper floor setbacks and design development of ‘townhouse’ style residential units directly accessed from 33<sup>rd</sup> Ave
- Details of the development of the NE corner to reduce the bulk and scale of the project, including upper floor setbacks from the corner, development of an additional corner bay, the role of materials and color to address the height bulk and scale of the project and details on ground floor ‘townhouse’ style development along the north property line
- Details of the open space and landscaping plans including the ground floor plaza, third floor common outdoor areas for residents, the use of balconies, the rooftop deck and streetscape plantings
- The use of materials and modulation throughout the project, including materials at the commercial level, the use of materials and color on the residential floors, details on the

ground floor ‘townhouse’ style units and the use of materials and color to provide accent features for the building

After visiting the site, considering the analysis of the site and context provided by proponents and hearing public comment, the Design Review Board members provided the following additional siting and design guidance, identifying by letter and number those siting and design guidelines found in the City of Seattle’s “*Design Review: Guidelines for Multifamily and Commercial Buildings*” that are of the highest priority to this project:

- A-7 Residential Open Space
- A-8 Parking and Vehicle Access
- A-9 Location of parking on commercial street fronts
- B-1 Height, Bulk and Scale Compatibility
- C-2 Architectural Concept and Consistency
- C-3 Human Scale
- C-4 Exterior Finish Materials

Reports of the Early Design Guidance meeting and the Interim Meeting detailed above were mailed to people who attended the meeting and who signed up to receive a copy of the minutes

### **Recommendation meeting – September 9, 2003**

On September 9, 2003, the Board reconvened to review the progress of the design following their previous meetings. Specifically, the Board was particularly interested in reviewing the applicants response to the guidelines prioritized at their previous meeting on the following issues:

- The overall development of the project
- The use of materials and colors
- The development and refinement of all facades, including the NE corner nearest to the adjacent L2 and SF zones
- Detailing of the commercial spaces
- The rationale for the departure requests and the design solutions for the open space provided

### **Departures from development standards**

The following departure from development standards, as allowed under SMC 23.41, were developed over the course of the project:

Request	Standard	Proposal	Rationale
Reduce required Open Space (SMC 23.47.024)	20% of gross floor area in residential use	17.1%	Will provide higher quality design that is designed to be used not just amount to meet standards

### **Summary of recommendation**

In general, the Board members in attendance indicated that the project met the Design Guidance that was prioritized at their previous meetings. The Board also indicated that there had been considerable effort by the applicant in developing the design, including addressing the concerns raised at previous meetings about the bulk and scale of the project. The Board complimented the development team on the quality of the presentation and the details provided in the presentation to gain a full understanding of the project's design

Therefore, after considering the proposed design and the project context and reconsidering the solutions presented in relation to the previously stated design priorities, the Design Review Board members in attendance unanimously recommended **APPROVAL** of the subject design. The Board also unanimously recommended **APPROVAL** of the requested development standard departure from the requirements of the Land Use Code (listed above). No conditions were imposed by the Design Review Board.

### **DIRECTOR'S ANALYSIS - DESIGN REVIEW**

The Director is bound by any consensus approval of the design and requested design departures, except in certain cases, in accordance with Section 23.41.014.F.3. These exceptions are limited to inconsistent application of the guidelines, exceeding the Board's authority, conflicts with SEPA requirements, or conflicts with state or federal laws. The Director has reviewed the Citywide Design Guidelines and finds that the Board neither exceeded its authority nor applied the guidelines inconsistently in the approval of this design. The Director also concurs with the conclusions of the Board that the project does meet the City-wide design guidelines

### **DECISION - DESIGN REVIEW**

The Director accepts the Board's recommendations to approve the project design and the requested departures. Conditions listed below are provided to ensure that the design details approved with this project are implemented through construction.

### **ANALYSIS - ADMINISTRATIVE CONDITIONAL USE**

The proposal, to construct a mixed-use structure, includes 208 residential units in a C2 zone. Establishment of residential uses in C2 zones requires approval of an administrative conditional use permit pursuant to the criteria identified at SMC Section 23.47.006.B.5. The applicable criteria are as follows (discussion of consistency with criteria interspersed):

- (1) *Availability of suitable land for C2 activities. Residential uses shall generally be discouraged in areas which have limited vacant land and where, due to terrain and large parcel size, land is particularly suitable for commercial rather than residential development.*

The zone in which the development site is located is generally surrounded by a mix of land uses including automobile repair, light manufacturing, retail and warehousing. Immediately adjacent

to the development site and in the area within 1-2 blocks of the development site are residentially zoned properties. The development site of approximately 1.44 acres, or 62,500 square feet, is somewhat irregularly situated for a commercially zoned parcel. The street frontage on Rainier Ave S, an arterial, is small in relationship to the overall parcel size and configuration. Conversely, the frontage on the parcel along 33<sup>rd</sup> Ave S, a commercially zoned street that terminates at the NE corner of the development site at the intersection of residentially zoned lots, has approximately twice the frontage as Rainier Ave S. The general area surrounding the development site is marked with undeveloped and underdeveloped properties, based upon the allowed zoning. The project includes approximately 9,400 sq feet of commercial space, as well as surface parking associated with this use, which is consistent with allowed uses in the zone. The amount of nonresidential development on the site appears consistent with what could be built on the site without the residential component.

- (2) *Relationship to transportation systems. Residential uses shall generally be discouraged in areas with direct access to major transportation systems such as freeways, state routes and freight rail lines.*

The project is located approximately 2 miles from any access point to either Interstate 5 or Interstate 90. Freight rail lines are not located in the immediate area. Rainier Ave S is classified as a state highway routes (SR 167). This portion of Rainier Ave S is marked by similarly situated commercial and residential development that lines the road on both sides of the street throughout Seattle. The entrance to the garage, that will primarily serve the residential uses, will be made from 33<sup>rd</sup> Ave S, a non-arterial street that fronts the east property line.

- (3) *Compatibility with surrounding areas. Residential uses shall not be allowed in close proximity to industrial areas and/or in areas where nonresidential uses may create a nuisance or adversely affect the desirability of the area for living purposes.*

The immediate area surrounding the development site is zoned C2-65. Locations within 1 block of the development site are zoned for uses where residential uses are permitted outright, including a C1 zone and an L2 zones. The residential uses for the site will be located above the commercial level, with separate parking areas, entries and access to the site. All access points to the ground floor townhouse-style residential units will be located at or near the NE corner to the project, within view of the adjacent residential zone. No industrial uses are permitted in the surrounding area. Nonresidential uses permitted on this site are generally permitted on the adjacent C1 zone lots. No conflict is anticipated.

Two additional criteria for approval of all conditional use applications in commercial zones, stated at SMC Section 23.47.006.A.1 and 2 are as follow:

1. *The use shall not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

The proposed residential use would not be materially detrimental to the public welfare or injurious to property in the zone or vicinity. Much of the current use of the lot and on adjacent

lots in the surrounding commercial zones is underutilized. Redevelopment of the lot should improve on property values in the area, with redevelopment of the site improving on the visual, physical and functional condition of the lot, in part due to the review and approval of the project under the city's Design Review requirements. The immediately adjacent uses are also zoned residential or allow for residential uses outright. The nonresidential uses anticipated for the site are primarily retail and/or administrative office, which provide generally low or imperceptible impacts on the site.

2. *In authorizing a conditional use, adverse impacts may be mitigated by imposing any conditions needed to protect other properties in the zone or vicinity and to protect the public interest. The Director shall deny or recommend denial of a conditional use if it is determined that adverse impacts cannot be mitigated satisfactorily.*

No adverse uses requiring mitigation pursuant to the conditional use authority have been identified. Design Review authority, as part of this Master Use Permit approval, appears sufficient to address potential adverse bulk and aesthetic impacts.

### Conclusion

Application of the conditional use criteria to the subject site leads to the conclusion that residential uses should be permitted. The area is suited for a mix of residential and commercial uses. It is not so particularly suited to commercial and industrial uses that residential uses should be disallowed.

### **DECISION – ADMINISTRATIVE CONDITIONAL USE**

The proposal for residential use in a mixed-use structure in a C2 zone is **GRANTED**.

### **ANALYSIS - SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated May 28, 2003, and annotated by this Department. This information in the checklist, supplemental information provided by the applicant (plans, including landscape plans, traffic analysis), comments from members of the community, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) establishes the relationship between codes, policies, and environmental review. Specific policies for specific elements of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part:

"where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation (subject to some limitations)."



Under certain limitations/circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

### **Short-term Impacts**

Demolition and construction activities could result in the following temporary or construction-related adverse impacts:

- construction dust and storm water runoff;
- erosion;
- increased traffic and demand for parking from construction equipment and personnel;
- increased noise levels;
- occasional disruption of adjacent vehicular and pedestrian traffic;
- decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment;
- increased noise; and
- consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts: The Noise Ordinance, the Stormwater Grading and Drainage Control Code, the Street Use Ordinance, and the Building Code. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The Street Use Ordinance requires debris to be removed from the street right-of-way, and regulates obstruction of the pedestrian right-of-way. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the City. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment.

### **Noise**

In addition to the Noise Ordinance requirements in SMC 25.08, to reduce the noise impact of construction on nearby properties, all other construction activities shall be limited to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby residences, only low noise impact work such as that listed below, shall be permitted on Saturdays and Sundays from 9:00 a.m. to 6:00 p.m.:

1. Surveying and layout;
2. Other ancillary tasks to construction activities will include site security, surveillance, monitoring, and maintenance of weather protecting, water dams and heating equipment.

After each floor of the building is enclosed with exterior walls and windows, interior construction on the individual enclosed floors can be done at other times in accordance with the Noise Ordinance. Such construction activities will have a minimal impact on adjacent uses. Restricting the ability to conduct these tasks would extend the construction schedule, thus the duration of associated noise impacts. DCLU recognizes that there may be occasions when critical construction activities could be performed in the evenings and on weekends, which are of an emergency nature or related to issues of safety, or which could substantially shorten the total construction time frame if conducted during these hours.

Therefore, the hours may be extended and/or specific types of construction activities may be permitted on a case-by-case basis by approval of the Land Use Planner prior to each occurrence. Periodic monitoring of work activity and noise levels will be conducted by DCLU Construction Inspections.

As conditioned, noise impacts to nearby uses are considered adequately mitigated.

### Grading

An excavation to construct the lower level of the structure areas will be necessary. The maximum depth of the excavation is approximately 8 feet and will produce approximately 3,000 cubic yards of material. The soil removed will not be reused on the site and will need to be disposed off-site by trucks. City code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of "freeboard" (area from level of material to the top of the truck container) be provided in loaded uncovered trucks which minimize the amount of spilled material and dust from the truck bed enroute to or from a site. No conditioning of the grading/excavation element of the project is warranted pursuant to SEPA policies.

### Construction Parking

Construction of the project is proposed to last for several months. Concerns were raised through the review process concerning the effect of construction related traffic impacts on adjacent streets. On-street parking in the vicinity is limited, and the demand for parking by construction workers during construction could exacerbate the demand for on-street parking and result in an adverse impact on surrounding properties. Further, truck trips associated with demolition, grading and construction activities may result in additional adverse impacts on surrounding streets and properties.

Accordingly, the owner and/or responsible party shall assure that construction vehicles and equipment are parked on the subject site for the term of construction whenever possible. It is expected that all workers will be able to park on-site once the parking garage phase is completed and for the remaining duration of construction activity. To further facilitate this effort, the owner and/or responsible party shall submit a construction phase transportation plan. The plan shall identify approximate phases and duration of construction activities, haul routes to and from the site, address ingress/egress of trucks/personnel/equipment and construction worker parking.

These conditions will be posted at the construction site for the duration of construction activity. The authority to impose this condition is found in Section 25.05.675B2g of the Seattle SEPA ordinance.

### **Long-term Impacts**

Long-term or use-related impacts are also anticipated from the proposal and include: increased surface water runoff from greater site coverage by impervious surfaces; potentially decreased water quality in surrounding watersheds; increased bulk and scale on the site; increased ambient noise due to increased human activity; increased demand on public services and utilities; increased light and glare; increased energy consumption, increased on-street parking demand, and increased vehicle traffic. These long-term impacts are not considered significant because the impacts are minor in scope.

### **Traffic and Transportation**

The project is located on Rainier Ave S, an arterial. Existing traffic operations in the vicinity show that a level of Service of B and C are present immediately adjacent to the project. As a result of this project, there will be approximately 68 new PM peak hour vehicle trips on adjacent streets, with a level-of-service reduction anticipated at the intersection of 33<sup>rd</sup> Ave S and Rainier Ave S in 2005. However, the proposed development will likely have no significant adverse impact on the surrounding transportation system and thus mitigation measures would not be necessary, as the level of service on adjacent streets will remain at acceptable levels. No conditioning is warranted.

### **Other Impacts**

Several adopted Codes and Ordinances and other Agencies will appropriately mitigate the other use-related adverse impacts created by the proposal. Specifically, these are the Puget Sound Air Pollution Control Agency (increased airborne emissions); and the Seattle Energy Code (long-term energy consumption). The other impacts not noted here as mitigated by codes, ordinances, or conditions (increased ambient noise; increased pedestrian traffic, increased demand on public services and utilities) are not sufficiently adverse to warrant further mitigation by conditions.

### **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

### **CONDITIONS - DESIGN REVIEW**

#### **During Construction:**

1. All changes to the exterior facades of the building and landscaping on site and in the ROW must be reviewed by a Land Use Planner prior to proceeding with any proposed changes.

#### **Prior to Issuance of a Certificate of Occupancy:**

1. Compliance with the approved design features and elements, including exterior materials, roof pitches, facade colors, landscaping and ROW improvements, shall be verified by the DCLU Planner assigned to this project. Inspection appointments with the Planner must be made at least 3 working days in advance of the inspection.

### **CONDITIONS – ADMINISTRATIVE CONDITIONAL USE**

None required.

### **CONDITIONS - SEPA**

#### **Prior to issuance of any Construction or Grading Permits**

1. The owner(s) and/or responsible party(s) shall secure DCLU Land Use Division approval of construction phase transportation and pedestrian circulation plans. Appropriate SDOT and King County METRO participation in development of the plans shall be documented prior to DCLU Land Use Division approval. The plans shall address the following:
  - Ingress/egress of construction equipment and trucks;
  - Truck access routes, to and from the site, for the excavation and construction phases;
  - Street and sidewalk closures;
  - Potential temporary displacement/relocation of any nearby bus stops.

#### **During construction:**

1. The owner(s) and/or responsible party(s) shall comply with the construction phase parking plan. A copy of that plan must be kept on-site.

2. All construction activities shall be limited to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby residences, only low noise impact work such as that listed below, shall be permitted on Saturdays and Sundays from 9:00 a.m. to 6:00 p.m.:
  - Surveying and layout;
  - Other ancillary tasks to construction activities will include site security, surveillance, monitoring, and maintenance of weather protecting, water dams and heating equipment.

After each floor of the building is enclosed with exterior walls and windows, interior construction on the individual enclosed floors can be done at other times in accordance with the Noise Ordinance. These hours may be extended and/or specific types of construction activities may be permitted on a case-by-case basis by approval of the Land Use Planner prior to each occurrence. Periodic monitoring of work activity and noise levels will be conducted by DCLU Construction Inspections.

Signature: (signature on file) Date: September 18, 2003  
Michael Jenkins, Land Use Planner  
Department of Design, Construction and Land Use  
Land Use Services

MJ:bg

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